

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Laminated Products Inc.
Kenosha, Wisconsin

) DOCKET No. CAA-5-2001-003
) Proceeding to Assess
) Administrative Penalties
) Under Section 113(d) of
) the Clean Air Act,
) 42 U.S.C. Section 7413(d)
)

ADMINISTRATIVE COMPLAINT

1. This is an action for the assessment of a civil administrative penalty brought against Laminated Products, Inc., ("LPI" or "Respondent"), under Section 113(d) of the Clean Air Act, ("Act"), 42 U.S.C. § 7413(d), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits", ("Consolidated Rules"), 40 C.F.R. Part 22, for violations of Section 112 of the Act, 42 U.S.C. § 7412, and the regulations promulgated thereunder setting forth the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Wood Furniture Manufacturing Operations, 40 C.F.R. Part 63, Subpart JJ (Wood Furniture NESHAP).

2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency, ("U.S. EPA"), Region 5, Chicago, Illinois.

3. The Respondent is Laminated Products Inc., which operates a wood furniture manufacturing facility in Kenosha, Wisconsin.

STATUTORY AND REGULATORY BACKGROUND

4. On December 7, 1995, pursuant to Section 112 of the Clean Air Act, 42 U.S.C. § 7412, U.S. EPA published, as a final rule, the National Emission

Standards for Wood Furniture Manufacturing Operations, found at 40 C.F.R. Part 63, Subpart JJ (60 Fed. Reg. 62930).

5. The Wood Furniture NESHAP applies to each facility that is engaged, either in part or in whole, in the manufacture of wood furniture or wood furniture components and that is located at a plant site that is major source as defined in 40 C.F.R. Part 63, Subpart A.

6. Section 113(d)(1) of the Act, 42 U.S.C. §7413(d)(1), and U.S. EPA's Civil Monetary Penalty Inflation Rule, 40 C.F.R. Part 19, provide that the Administrator may issue an administrative order assessing a civil penalty of up to \$27,500 per day of violation, whenever the Administrator finds that a person has violated or is violating any requirement or prohibition of an applicable implementation plan or any permit issued under a SIP.

7. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

8. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this complaint.

GENERAL ALLEGATIONS

9. Respondent owns and operates a wood furniture manufacturing facility located at 5718-52nd Street, Kenosha, Wisconsin.

10. Respondent is a corporation doing business in the State of Wisconsin.

11. Respondent is a "person" as defined at Section 302 of the Clean Air Act, 42 U.S.C. § 7602.

12. Respondent's facility has the potential to emit in the aggregate, ten tons per year or more of any hazardous air pollutants (HAP) or twenty five tons per year or more of any combinations of HAP.

13. Respondent's wood furniture manufacturing facility is a major source of HAP, and therefore subject to the Wood Furniture NESHAP at 40 C.F.R. Part 63, Subpart JJ, §§ 63.800 - 63.808.

14. On September 29, 2000, Bharat Mathur, Director, Air and Radiation Division, Region 5, issued a Finding of Violation to LPI, alleging violations of the applicable Wood Furniture NESHAP, 40 C.F.R. Part 63.

15. U.S. EPA and LPI held a conference on November 8, 2000, to discuss the Finding of Violation.

COUNT I

16. Paragraphs 1 through 15 are incorporated herein by reference.

17. 40. C.F.R. § 63.803(a) requires that each owner or operator of an affected source shall prepare and maintain a written work practice implementation plan that defines environmentally desirable work practices for each wood furniture manufacturing operation and addresses certain work

practice standards required under § 63.803. LPI has failed to develop such a work practice implementation plan.

COUNT II

18. Paragraphs 1 through 15 are incorporated herein by reference.

19. 40. C.F.R. §63.803(b) requires that each owner or operator of an affected source to employ certain training program for all new and existing personnel who are involved in finishing, gluing, cleaning, washoff operations, use of manufacturing equipment, or implementation of the requirements of this Subpart.

20. LPI has failed to provide such a training program.

COUNT III

21. Paragraphs 1 through 15 are incorporated herein by reference.

22. 40. C.F.R. §63.803(c) requires that each owner or operator of an affected source shall prepare and maintain with the written work practice implementation plan a written leak inspection and maintenance plan which specifies certain practices such as a minimum visual inspection frequency for all equipment used to transfer or apply adhesives or organic HAP solvents, an inspection schedule, and the time frame between identifying the leaks and making the repairs.

23. LPI has failed to implement such a leak detection and maintenance plan.

COUNT IV

24. Paragraphs 1 through 15 are incorporated herein by reference.

25. 40. C.F.R. §63.803(d) requires, among other things that each owner

or operator of an affected source shall develop an organic HAP solvent accounting form to record:

- (1) the quantity and type of organic HAP solvents used each month for washoff and cleaning;
- (2) the number of pieces washed off; and
- (3) the quantity of spent organic HAP solvent generated from each washoff and cleaning operation each month, and whether it is recycled on site or disposed offsite.

26. LPI has failed to develop such a form and record keeping plan.

COUNT V

27. Paragraphs 1 through 15 are incorporated herein by reference.

28. 40 C.F.R. §63.807(b) requires that the owner or operator of an affected source to submit the compliance status report required by §63.9(h) of subpart A (General Provisions) no later than 60 days after the compliance date.

29. LPI has failed to submit such a report.

COUNT VI

30. Paragraphs 1 through 15 are incorporated herein by reference.

31. 40 C.F.R. §63.807(c) requires that the owner or operator of an affected source to submit semiannual reports containing information required by §63.804(g) (1), (2), (3), (5), (7) and (8) and a statement of whether the affected source was in compliance or noncompliance, and, if the affected source was in noncompliance, the measures taken to bring the affected source into compliance.

32. LPI has failed to submit such reports.

NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

33. The Administrator must consider the factors specified in Section 113(e) of the Act when assessing an administrative penalty under Section 113(d). 42 U.S.C. § 7413(e).

34. Based upon an evaluation of the facts alleged in this complaint and the factors in Section 113(e) of the Act, Complainant proposes that the Administrator assess a civil penalty against Respondent of \$38,500. Complainant evaluated the facts and circumstances of this case with specific reference to U.S. EPA's Clean Air Act Stationary Source Penalty Policy dated October 25, 1991 (penalty policy). Enclosed with this complaint is a copy of the penalty policy.

35. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

Rules Governing This Proceeding

36. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (the Consolidated Rules) at 40 C.F.R. Part 22 govern this proceeding to assess a civil penalty. Enclosed with the complaint served on Respondent is a copy of the Consolidated Rules.

Filing and Service of Documents

37. Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

38. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Jeffery Trevino to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Jeffery Trevino at (312) 886-6729. Mr. Trevino's address is:

Jeffery Trevino (C-14J)
Associate Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Penalty Payment

39. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and by delivering the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to Jeffery Trevino and to:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Opportunity to Request a Hearing

40. The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty under Section 113(d) (2) of the Act, 42 U.S.C. § 7413(d) (2). Respondent has the right to request a hearing on any material fact alleged in the complaint, or on the appropriateness of the proposed penalty, or both. To request a hearing, Respondent must specifically make the request in its answer, as discussed in paragraphs 35 through 39 below.

Answer

41. Respondent must file a written answer to this complaint if Respondent contests any material fact of the complaint; contends that the proposed penalty is inappropriate; or contends that it is entitled to judgment as a matter of law. To file an answer, Respondent must file the original written answer and one copy with the Regional Hearing Clerk at the address specified in paragraph 31, above, and must serve copies of the written answer on the other parties.

42. If Respondent chooses to file a written answer to the complaint, it must do so within 30 calendar days after receiving the complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and Federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or Federal legal holiday, the time period

extends to the next business day.

43. Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied.

44. Respondent's failure to admit, deny, or explain any material factual allegation in the complaint constitutes an admission of the allegation.

45. Respondent's answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing as discussed in paragraph 34 above.

46. If Respondent does not file a written answer within 30 calendar days after receiving this complaint the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference

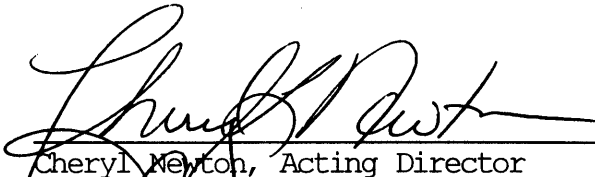
47. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Jeffery Trevino at the address or phone number specified in paragraph 32, above.

48. Respondent's request for an informal settlement conference does not extend the 30 calendar day period for filing a written answer to this complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. U.S. EPA, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

49. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the Act and any other applicable Federal, State, or local law.

3/8/01
Date


Cheryl Newton, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

In the Matter of Laminated Products, Inc.

Docket No.

CERTIFICATE OF SERVICE

MAR 09 2001

I certify that on _____, I filed the foregoing Complaint and Notice of Opportunity for Hearing on Proposed Administrative Order Assessing Penalties against Laminated Products Inc.,
CAA-5* 2001-003
Docket No. _____ (Complaint), with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and have deposited in the U.S. Mail, certified mail, return receipt requested, a true and correct copy of a Complaint, along with a copy of the "Consolidated Rules of Practice governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22, and a copy of the Penalty Policies (described in the Complaint), addressed to the following Respondent:

Robert Block, President
Laminated Products, Inc.
5718 - 52nd Street
Kenosha, Wisconsin 53144

Certified Mail Number: 7099 3400 0000 9592 4427

I also certify that copies of the Complaint was sent by first class mail to:

Lloyd Eagan, Director
Bureau of Air Management
101 S. Webster Street
P.O. Box 7921 (AM/7)
Madison, Wisconsin 53707

and

Lakshmi Sridharan
Wisconsin Department of Natural Resources
Southeast Region
2300 North Dr. Martin Luther King Jr. Drive
P.O. Box 12435
Milwaukee, Wisconsin 53212

3-9-01
Date

Shanee Rucker
Shanee Rucker, Secretary
AECAS (MI/WI)